

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

Nacemah Ghafur, M.D.)

File No. 20-2009-198969

Physician's and Surgeon's)

Certificate No. A 79585)

Respondent.)

DECISION

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 6, 2011.

IT IS SO ORDERED April 6, 2011.

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

NAEEMAH HOWELL GHAFUR, M.D.,

Physician and Surgeon's Certificate No. A
79585

Respondent.

Case No. 20-2009-198969

OAH No. 2010100812

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on January 7, and February 4, 2011.

Brenda P. Reyes, Deputy Attorney General, represented complainant.

Respondent was not present and was not otherwise represented. Upon proof of compliance with Government Code sections 11505 and 11509, this matter proceeded as a default pursuant to Government Code section 11520.

The matter was submitted on February 4, 2011.

FACTUAL FINDINGS

1. Barbara Johnston made this accusation in her official capacity as the Executive Director of the Medical Board of California and not otherwise.

2. On June 26, 2002, the Medical Board of California issued Physician and Surgeon's Certificate Number A 79585 to Naeemah Howell Ghafur, M.D (respondent). The certificate is renewed and current to February 28, 2012.

3. On June 22, 2004, respondent signed a California Physician Corps Loan repayment Program Agreement (Agreement) with the Board in which she agreed to provide medical services for the term July 1, 2004, through June 30, 2007, at a clinic in the Los Angeles area serving the medially underserved, for which respondent would receive loan repayment in specified amounts following each of the three years of service.

4. Under the terms of the Agreement, respondent agreed to comply with all terms of the Program as specified in the governing statutes and regulations, the provisions of which were attached to the Agreement and incorporated into the Agreement by reference. The Agreement provided that all notices or other communications between the parties shall be in writing and shall be deemed properly given if delivered in person or sent by recognized overnight courier, or first class mail, to the address specified in the Agreement or another address specified in writing by a party.

5. On June 30, 2005, respondent completed one year of service and received \$22,800 in loan repayment from the Board.

6. In March 2006, respondent notified the Board that she had lost her job and was looking for a new eligible worksite. On April 30, 2006, respondent notified the Board by email that she had found employment but that it was not with a practice facility eligible under the program.

7. On June 15, 2006, after several unsuccessful attempts to contact respondent by telephone and letter, the Board sent respondent a letter by certified mail to her address of record notifying her under the provisions of the California Code of Regulations, that she must repay \$22,800 to the Board within 365 calendar days of the notification. Copies of the program regulation were included with the letter. After approximately one month, the letter was returned to the Board as "unclaimed."

8. On August 30, 2006, the Board sent respondent a letter by certified mail to her address of record which advised her, among other things, that her failure to repay the Board as demanded in the June 15, 2006 letter, constituted unprofessional conduct under the Agreement. The letter notified respondent that interest was accruing on the delinquent debt and respondent was requested to contact the Board within 30 days. The letter was returned as "Not Deliverable as Addressed, Unable to Forward."

9. On October 29, 2007, the Board again sent respondent a letter by certified mail to her address of record which advised respondent, among other things, that her failure to repay the Board as demanded in the letter of June 15, 2006, constituted unprofessional conduct under the Agreement. The letter notified respondent again that interest was accruing on the delinquent debt and respondent was requested to contact the Board within 30 days. The letter was returned as "Not Deliverable as Addressed, Unable to Forward."

10. On November 8, 2007, respondent contacted the Board by telephone and asked to repay the debt to the Board through a payment plan. Respondent also reported that she had a new address. Respondent was advised by Board staff that she was required to report a change of address to the Board in writing. That same day, the Board sent respondent by facsimile a copy of the previously sent and returned letter of October 29, 2007, and a Change of Address Form.

11. On November 14, 2007, the board sent respondent a letter by certified mail to the address she reported during the telephone call of November 8, 2007, and enclosed copies of the Board's letter to her of October 29, 2007, and a Change of Address Form. The letter notified respondent that if she did not timely respond with either objections to the Board's notice of the delinquent debt or a proposed payment plan, the Board would take disciplinary action. The letter was returned to the Board marked Unclaimed. Respondent did not submit a change of address to the Board until February 2008.

12. On November 28, 2007, respondent wrote the Board advising that she was aware that she must repay the debt, that she was unable to pay the full amount, and proposing a repayment plan of \$750 per month. On December 21, 2007, the Board sent respondent a letter by certified mail accepting her offer of a payment plan of \$750 per month. The letter set forth the terms and conditions of repayment. Two copies of the letter were enclosed and respondent was asked to sign and return one copy along with the first payment. The letter was returned to the Board as unclaimed in January 2008.

13. On December 20, 2008, respondent sent the Board a check in the amount of \$300 as repayment. The Board did not deposit this check since it did not represent the amount that respondent had agreed to pay per month.

14. Respondent's certificate to practice medicine is subject to disciplinary action for general unprofessional conduct in that she failed to pay the Board within 365 days of the notice of the demand for payment the total amount of the loan repayment paid to her under the Agreement. The Board's representative has recommended that respondent be placed on probation on terms and conditions, including that she make payments to repay the loan. As of December 31, 2010, the balanced owed by respondent is \$26,718.34. Interest continues to be accrued at the prime rate pursuant to the Agreement.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3 through 14, cause for disciplinary action exists pursuant to Business and Professions Code section 2234 (General Unprofessional Conduct) and section 2154 et seq. (Establishment of the California Physician Corps Loan Repayment Program) and California Code of Regulations, title 16, section 1313.05, subdivisions (b) (must repay within 365 days of notice) and (e) (conditions of repayment – failure to pay constitutes unprofessional conduct).

2. The Board's representative has requested that respondent be placed on probation to the Board upon standard terms and conditioned upon making monthly payments until the loan is repaid. Based on that recommendation it is appropriate to place respondent on probation.

ORDER

Physician and Surgeon's Certificate No. A 79585 issued to respondent Naeemah Howell Ghafur is revoked. However, revocation stayed and respondent is placed on probation for five years upon the following terms and conditions.

1. Loan Repayment

Within 90 calendar days from the effective date of the Decision or other period agreed to by the Board or its designee, respondent shall reimburse the Board the amount of \$26,718.34 for repayment of the California Physician Corps Loan Repayment Program Agreement. This amount can be repaid in installments as agreed to by the Board.

2. Ethics Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. Notification

Prior to engaging in the practice of medicine the respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

4. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants.

5. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

6. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

7. Probation Unit Compliance

Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee.

Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Respondent shall not engage in the practice of medicine in respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

8. Interview with the Board or its Designee

Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

9. Residing or Practicing Out-of-State

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California totals two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two-year period shall begin on the date probation is completed or terminated in that state.

10. Failure to Practice Medicine - California Resident

In the event respondent resides in the State of California and for any reason respondent stops practicing medicine in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

11. Completion of Probation

Respondent shall comply with all financial obligations (e.g., loan repayment, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

12. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

13. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

14. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: 2/25/11



RUTH S. ASTLE

Administrative Law Judge

Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 10, 2009
BY Valerie Moore ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 20-2009-198969

NAEEMAH HOWELL GHAFUR, M.D.
31882 Castaic Road
Castaic, California 91384

A C C U S A T I O N

Physician's and Surgeon's Certificate
No. A 79585

Respondent.

Complainant alleges:

PARTIES

1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.
2. On or about June 26, 2002, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 79585 to Naeemah Howell Ghafur, M.D. (respondent). At all times relevant to the charges brought herein this license has been in full force and effect. Unless renewed, the certificate will expire on February 28, 2010.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code provides, in relevant part, that the Board shall take action against any licensee who is charged with unprofessional conduct, which includes but is not limited to, the enforcement provisions of the Medical Practice Act.

7. Section 2154 of the Code provided for the establishment of the California Physician Corps Loan Repayment Program (Program) in the Division of Licensing of the Board.¹

¹ The Program provisions (Bus. & Prof. Code, §§ 2154 through 2154.7) were repealed on July 1, 2006. "Division of Licensing" is deemed to refer to the Board. (Bus. & Prof. Code, § 2002.)

1 8. Section 2154.3 of the Code provided, in pertinent part, that Program applicants shall
2 commit to a minimum of three years of service at an eligible practice facility in a medically
3 underserved area.

4 9. Section 2154.5 of the Code provided, in pertinent part, that under the terms of loan
5 repayment granted under the Program, after a program participant has completed one year of
6 providing physician services in a medically underserved area, the Board shall provide up to
7 \$25,000 for loan repayment.

8 10. Section 1313.05 of Title 16 of the California Code of Regulations (CCR) states:

9 “(a) A physician participating in the program shall notify the [Board] in writing within 15
10 working days of any change in the physician’s full-time status, including but not limited to, a
11 decrease in the number of hours providing medical services, termination, resignation, or leave of
12 absence in excess of the time permitted in section 1313.01(d).

13 “(b) A physician participating in the program who is unable to complete the required three
14 years of service shall pay to the Medical Board of California, within 365 calendar days after
15 notification by the [Board], an amount equal to the total amount of loan repayment paid to the
16 physician by the program. Whenever the [Board] has evidence that the physician is unable to
17 complete the required three years of service, it shall notify the participating physician of the
18 amount to be repaid to the [Board] and the date by which the physician shall make that
19 repayment.

20 “(c) A physician or the physician’s representative may petition the [Board] for
21 modification of the amount to be paid or repaid and/or the time for repayment. The petition shall
22 be in writing, accompanied by those documents necessary to establish the basis for the petition,
23 and shall be filed with the [Board] not later than 90 working days after the date of notification. A
24 petition shall be accepted for filing only if it is based on one or more of the following grounds:

25 “(1) The physician was terminated without cause.

26 “(2) The physician was unable to complete the required three years of service due to
27 factors beyond the physician’s control.

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1 “(3) Both the practice setting and the physician have agreed to the termination of the
2 physician’s employment, and the physician has been unsuccessful in obtaining subsequent
3 qualifying employment within 3 months after termination of employment.

4 “(d) The [Board] shall review the petition and supporting documents and shall notify the
5 physician in writing of its decision within 60 working days after receipt of the complete petition.

6 “(e) Failure to repay the amount due within 365 calendar days as required in subsection (a)
7 (sic) above shall constitute unprofessional conduct and is not subject to Section 2314 of the code.
8 It shall also result in the accrual of interest, at prime, on the outstanding balance, reporting of the
9 default to credit agencies, lien(s) on the physician’s personal property, and garnishment of the
10 physician’s future wages. It may also result in civil damages, including the imposition of attorney
11 fees.”

12 **CAUSE FOR DISCIPLINE**

13 **(General Unprofessional Conduct)**

14 11. Respondent is subject to disciplinary action under section 2234 of Code in that
15 respondent has engaged in general unprofessional conduct. The circumstances are as follows:

16 12. On or about June 22, 2004, respondent signed a California Physician Corps Loan
17 Repayment Program Agreement (Agreement) with the Board in which she agreed to provide
18 medical services for the term July 1, 2004, through June 30, 2007, at a clinic in the Los Angeles
19 area serving the medically underserved, for which respondent would receive loan repayment in a
20 specified amount following each of the three years of service.

21 13. Under the terms of the Agreement, respondent agreed to “comply with all terms of
22 the Program as specified” in the governing statutes and regulations, the provisions of which were
23 attached to the Agreement and incorporated by reference. The Agreement provided that all
24 notices or other communications between the parties shall be in writing and shall be deemed
25 properly given if delivered in person or sent by recognized overnight courier, or first class mail,
26 to the address specified in the Agreement or to another address specified in writing by a party.

27 14. On or about June 30, 2005, respondent completed one year of service and received
28 \$22,800 in loan repayment from the Board.

1 15. In or about March 2006, respondent notified the Board that she had lost her job and
2 was looking for a new eligible worksite. On April 30, 2006, respondent notified the Board by e-
3 mail that she had found employment but that it was not with a practice facility eligible under the
4 Program.

5 16. On June 15, 2006, after several unsuccessful attempts to contact respondent by
6 telephone and letter, the Board sent respondent a letter by certified mail to her address of record
7 notifying her under the provisions of Section 1313.05 (b) of Title 16 of the CCR , that she must
8 repay to the Board \$22,800 within 365 calendar days of the notification. Copies of the Program
9 regulations were included with the letter. Approximately one month later, the letter was returned
10 to the Board "unclaimed."

11 17. On or about August 30, 2006, the Board sent respondent a letter by certified mail to
12 her employment address, and enclosed copies of the June 15, 2006, letter and attachments, as well
13 as copies of correspondence previously sent to her but returned to the Board unclaimed. The
14 certified mail tag was returned to the Board with the signature of an agent of respondent's
15 employer.

16 18. On or about October 29, 2007, the Board sent respondent a letter by certified mail to
17 her address of record which advised respondent, among other things, that her failure to repay the
18 Board as demanded in the letter of June 15, 2006, constituted unprofessional conduct under the
19 Agreement. The letter notified respondent, among other things, that interest was accruing on the
20 delinquent debt and respondent was requested to contact the Board within 30 days. The letter was
21 returned "Not Deliverable as Addressed, Unable to Forward."

22 19. On or about November 8, 2007, respondent contacted the Board by telephone and
23 asked to repay the debt to the Board through a payment plan. Respondent also reported that she
24 had a new address. Respondent was advised by Board staff that she was required to report a
25 change of address to the Board in writing. That same day, the Board sent respondent by facsimile
26 a copy of the previously sent and returned letter of October 29, 2007, and a Change of Address
27 Form.

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1 20. On or about November 14, 2007, the Board sent respondent a letter by certified mail
2 to the address she reported during the telephone call of November 8, 2007, and enclosed copies of
3 the Board's letter to her of October 29, 2007, and a Change of Address Form. The letter notified
4 respondent that if she did not timely respond with either objections to the Board's notice of the
5 delinquent debt or a proposed payment plan, the Board would take action. The letter was
6 returned to the Board marked "Unclaimed." Respondent did not submit a change of address to
7 the Board until in or about February 2008.

8 21. On or about November 28, 2007, respondent wrote the Board advising that she was
9 aware that she must repay the debt, that she was unable to pay the full amount, and proposing a
10 repayment plan of \$750 per month. On or about December 21, 2007, the Board sent respondent a
11 letter by certified mail accepting her offer of a payment plan of \$750 per month. The letter set
12 forth the terms and conditions of repayment. Two copies of the letter were enclosed and
13 respondent was asked to sign and return one copy along with a first payment. The letter was
14 returned to the Board unclaimed in January 2008.

15 22. On or about December 20, 2008, respondent sent the Board a check in the amount of
16 \$300 as repayment.

17 23. Respondent's certificate to practice medicine is subject to disciplinary action for
18 general unprofessional conduct pursuant to Business and Professions Code section 2234, and by
19 and through Section 1313.05, subdivision (e), of Title 16 of the CCR, in that respondent has
20 failed to pay to the Board within 365 days of notice of the demand for payment the total amount
21 of loan repayment paid to her under the Agreement.

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4. Taking such other and further action as deemed necessary and proper.

Barbara Johnston
BARBARA JOHNSTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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